

**Joint Legislative Audit and Review Commission**

**Final Report:  
Impact of Assisted Living Regulations**

Joint Commission on Health Care Briefing  
October 17, 2007



**JLARC**

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**Study Mandate**

- Item 21E of the Appropriation Act directs JLARC to report on impact of new regulations for assisted living facilities



**JLARC**

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## **In This Presentation**

- Assisted Living in Virginia
- New Law and Its Implementation
- Assisted Living Facilities of Concern
- Cost Impact of New Law and Regulations



## **Assisted Living at a Glance**

- What is assisted living?
  - Non-medical residential settings provide personal and health care services and 24-hour supervision
- Who oversees Virginia's ALFs?
  - Licensed by Department of Social Services if 4 or more residents
  - Other regulations by Department of Health and Department of Health Professions
- What are key characteristics of ALFs in Virginia?
  - 583 licensed facilities: 4 to 500 beds (average: 55)
  - 32,000 statewide capacity
  - 81% private pay

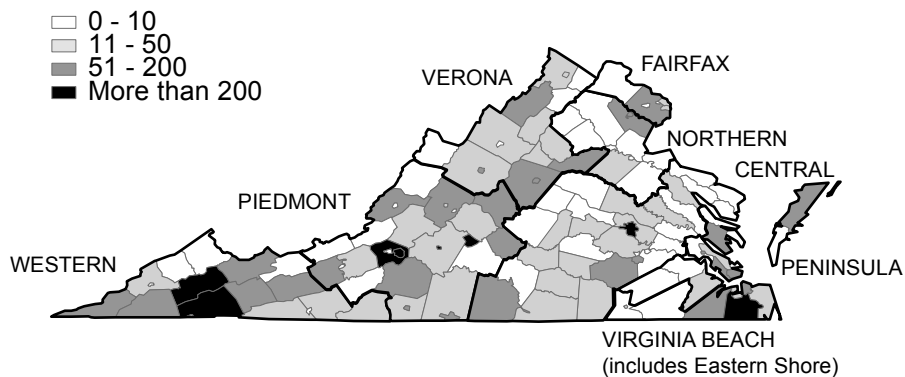


## ALF Population & Facility Size Increasing

- Capacity grew 207% from 1979 to 2007 –  
from 10,420 to 31,964
  - Outpaced 43% State population growth
- Number of Virginians 85 and older expected to  
double between 2000 and 2030



## Auxiliary Grant Beds Not Available in 41 Localities



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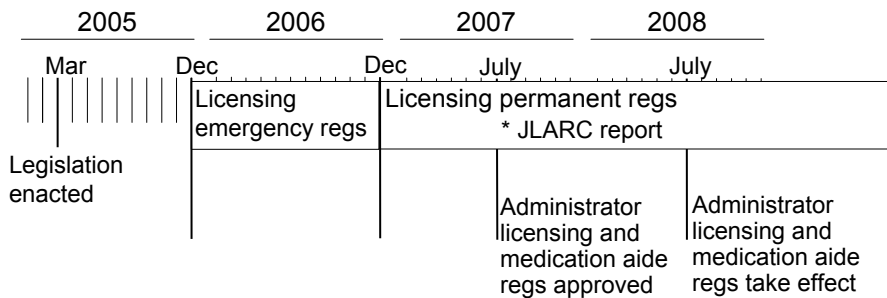


## 2005 Legislation Required 3 Sets of Regulations

- **Board of Social Services** (DSS) licensing authority enhanced
  - Increased maximum fine to \$10,000
  - Streamlined license suspension
  - Required DSS to issue emergency regulations
- **Board of Nursing** (BON) to register medication aides
  - Aides must pass State exam and register by July 2008
  - ALFs must develop medication management plans
- **Board of Long-Term Care Administrators** (BLTCA) to license ALF administrators
  - Draft licensure regs developed, not yet finalized



## Regulations Phase In Over Time



## ALF Administrator Licensing Delayed

### ■ Governor questioned BLTCA draft regulations

- Need for both national and State exam
- Required amount of administrator-in-training hours
- Sufficiency of candidate pool

### ■ BLTCA met July 10 and adopted changes

- Dropped test on State law
- Changed initial licensure requirements, lowering required time as Administrator-in-Training
- Altered 'preceptor' requirements

### ■ Draft regulations now in Governor's Office



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## **Finding**

- 114 ALFs (20%) had significant compliance problems and/or verified complaints

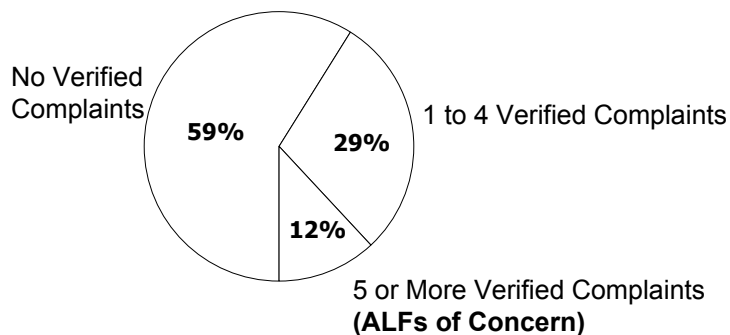


## "Quality" Not Defined in Statute or Regulation

- To identify ALFs of concern, JLARC used data on compliance with standards and verified complaints
  - DSS staff monitor ALFs for compliance
  - Complaints investigated by
    - Long-Term Care Ombudsman in Area Agencies on Aging
    - DSS Adult Protective Services
    - DSS Division of Licensing Programs



## 1 in 8 ALFs Had 5 or More Verified Complaints in 2006

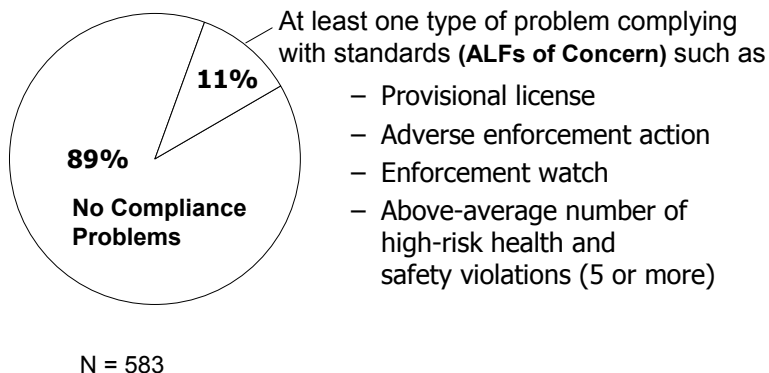


N = 583

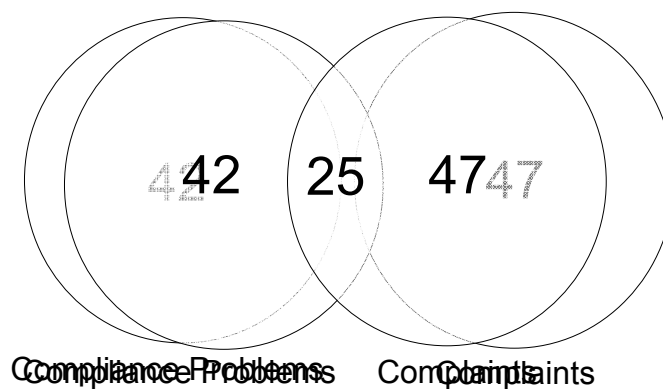
5 = Average number of verified complaints, for ALFs with complaints



## 1 in 9 ALFs Had a Recent History of Problems Meeting Standards



## 25 ALFs Had Both Verified Complaints and Compliance Problems in 2006





## Characteristics of ALFs of Concern

- Larger: capacity of 20 or more
- More prevalent in 4 of 8 DSS regions: Western, Fairfax, Piedmont, Verona
- Serve more auxiliary grant recipients
  - 23 per ALF (compared to 11 for all ALFs)
  - 40% of capacity (compared to 31% for all ALFs)



## One Year Later: ALFs Of Concern as Identified in JLARC 2006 Status Report

Status	Number	Percent
Improved; No Longer "Of Concern"	56	41%
Closed	12	9%
Closed & Reopened Under New Ownership	10	7%
Remain "Of Concern"	59	43%
Total	137	100%



## **Finding**

- Quality of key services continues to be a problem
  - Medication administration
  - Staffing
  - Access to mental health services



## **Medication Administration Still of Concern**

- 18% of verified licensing complaints were medication-related (22% last year)
- 8 of 10 most frequently cited high-risk health and safety violations were medication-related (same as last year)
- Most frequent problems (same as last year)
  - Failure to follow physicians' prescriptions and orders
  - Inadequate documentation
  - Inadequate staff training
- Registration of medication aides required by 2005 law takes effect in July



## **Adequacy of Staffing and Training Still of Concern**

- Second-most frequent licensing complaint
- More than 400 complaints of resident abuse or neglect verified in 168 ALFs
- Staffing a factor in three-fourths of adverse enforcement actions issued



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## **Finding**

- New law and regulations will require new fees and increase costs



## **Fees and Training Costs Increasing**

- ALF administrator licensing draft standards
  - High school or GED, exam, annual fee, training and education requirements (some exceptions)
- Medication aide registration standards
  - Annual fee, training, exam
- DSS standards
  - On-site quarterly reviews of special diets by dietitian or nutritionist



## Facility Costs Increasing

- Air conditioning by June 2007 for “largest common area used by residents”
  - Estimates exceed \$10,000 for older ALFs
  - Air conditioning in all areas used by residents in 2012
  - Many but not all ALFs already air conditioned
- Connection to temporary electrical power required by July 2007



## Typical Costs Imposed by New Law and Regulations

	Cost per “Average” ALF
Administrator Licensing	\$200 + training
Medication Aide Registration	\$120 + training
Dietitian Review of Special Diets	\$120-1,200/year
Temporary Electrical Power	0-\$6,000 +
Air Conditioning	0-\$10,000 +
<b>Total Potential Costs</b>	<b>\$440-17,520 +</b>



## Finding

- Auxiliary grant increases have not accounted for cost of new requirements; the rate remains below market prices



## Auxiliary Grant Has Increased

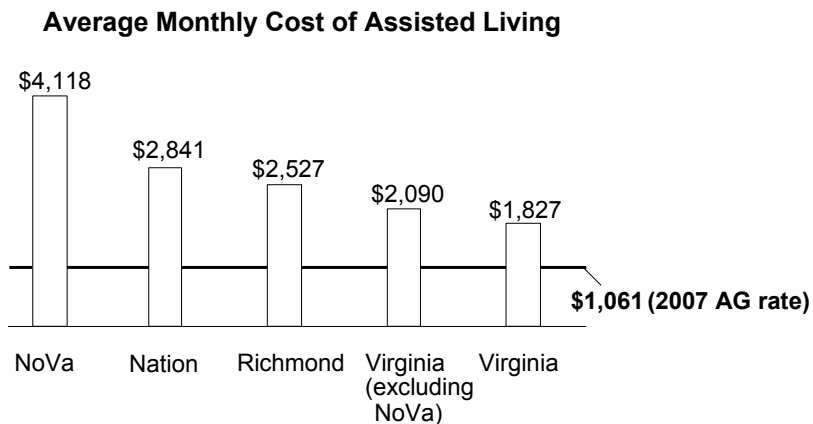
- More than 50% of ALFs are partly or totally dependent on State auxiliary grant funding
  - Majority of residents receive auxiliary grant funding in at least 208 ALFs; another 100 ALFs have at least one auxiliary grant recipient
- As of July, the auxiliary grant rate is \$1,061 per month, with \$75 personal allowance

SSI	\$ 623
State	\$ 350
Local	\$ 88
Total	\$1,061

- Rate is not tied to cost or quality of care



## Auxiliary Grant Rate Is Below Market Prices

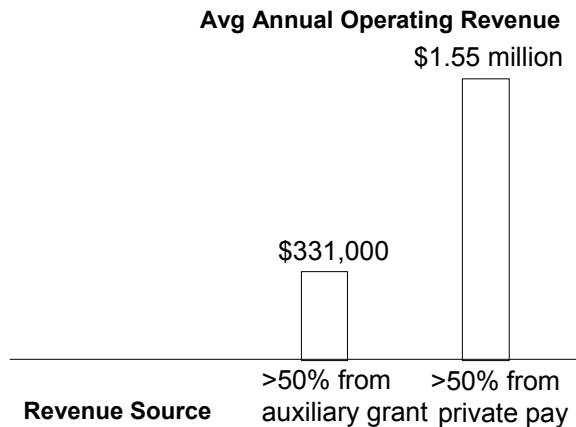


## Auxiliary Grant May Not Be Sufficient for Compliance

- ALFs of concern serve more auxiliary grant recipients
- ALFs serving auxiliary grant recipients have less revenue available



## ALFs Serving Auxiliary Grant Recipients Have Less Revenue Available



## Key Findings

- As new law and regulations phase in, some ALFs continue to experience problems
  - Medication administration, staffing, mental health services
- Auxiliary grant beds may not be available in the areas they are needed
  - 41 localities have none
- New law and regulations impose added costs on ALFs and ALF staff but adjustments to auxiliary grant rate have not been adequate – the rate remains well below the market





## **JLARC Staff for This Report**

Glen S. Tittermary, Deputy Director

Walt Smiley, Team Leader

Jenny Breidenbaugh

## **For More Information**

<http://jlarc.state.va.us>      (804) 786-1258

